

CLEMENT SETH ROBERTS (SBN 209203)  
croberts@orrick.com  
BAS DE BLANK (SBN 191487)  
basdeblank@orrick.com  
ALYSSA CARIDIS (SBN 260103)  
acaridis@orrick.com  
ORRICK, HERRINGTON & SUTCLIFFE LLP  
The Orrick Building  
405 Howard Street  
San Francisco, CA 94105-2669  
Telephone: +1 415 773 5700  
Facsimile: +1 415 773 5759

SEAN M. SULLIVAN (*pro hac vice*)  
sullivan@ls3ip.com  
COLE RICHTER (*pro hac vice*)  
richter@ls3ip.com  
LEE SULLIVAN SHEA & SMITH LLP  
656 W Randolph St., Floor 5W  
Chicago, IL 60661  
Telephone: +1 312 754 0002  
Facsimile: +1 312 754 0003

*Attorneys for Sonos, Inc.*

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA,  
SAN FRANCISCO DIVISION

SONOS, INC.,  
Plaintiff and Counter-defendant,  
v.  
GOOGLE LLC,  
Defendant and Counter-claimant.

Case No. 3:20-cv-06754-WHA  
Consolidated with  
Case No. 3:21-cv-07559-WHA

**SONOS, INC.'S ADMINISTRATIVE  
MOTION TO FILE UNDER SEAL RE  
SONOS, INC.'S SUPPLEMENTAL  
BRIEF REGARDING '885 AND '966  
PATENTS**

## I. INTRODUCTION

Pursuant to Civil Local Rules 7-11 and 79-5, Sonos, Inc. (“Sonos”) hereby respectfully submits this Administrative Motion to Seal (“Administrative Motion”) in connection with Sonos’s Supplemental Brief Regarding ’885 and ’966 Patents. Specifically, Sonos seeks to file under seal the information and/or document(s) listed below:

DOCUMENT	PORTIONS TO BE SEALED	DESIGNATING PARTY
Exhibit 5 to Kolker Declaration	Portions identified with blue highlighting	Sonos

## II. LEGAL STANDARD

Civil Local Rule 79-5 requires that a party seeking sealing “establish[] that the document, or portions thereof, are privileged, protectable as a trade secret or otherwise entitled to protection under the law” (*i.e.*, is “sealable”). *See* Civil L.R. 79-5(b). The sealing request must also “be narrowly tailored to seek sealing only of sealable material.” *Id.*

“Historically, courts have recognized a ‘general right to inspect and copy public records and documents, including judicial records and documents.’” *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 597 & n.7 (1978)). Accordingly, when considering a sealing request, “a ‘strong presumption in favor of access’ is the starting point.” *Id.* (quoting *Foltz v. State Farm Mutual Auto. Insurance Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003)).

The Ninth Circuit has recognized that two different standards may apply to a request to seal a document – namely the “compelling reasons” standard or the “good cause” standard. *Blessing v. Plex Sys., Inc.*, No. 21-CV-05951-PJH, 2021 WL 6064006, at \*12 (N.D. Cal. Dec. 22, 2021) (citing *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1096-97 (9th Cir. 2016)). The compelling reasons standard applies to any sealing request made in connection with a motion that is “more than tangentially related to the merits of a case.” *Id.* A party seeking to seal materials submitted with a motion that is “more than tangentially related to the merits of the case” must demonstrate that there are “compelling reasons” to keep the documents under seal.

1 *WhatsApp Inc. v. NSO Grp. Techs. Ltd.*, 491 F. Supp. 3d 584, 596 (N.D. Cal. 2020) (citing *Ctr.*  
 2 *for Auto Safety*, 809 F. 3d at 1101-1102). What constitutes a compelling reason is left to the  
 3 “sound discretion of the trial court.” *Ctr. for Auto Safety*, 809 F.3d at 1097 (quoting *Nixon*, 435  
 4 U.S. at 599).

5 Under the compelling reasons standard, “a court may seal a record only if it finds a  
 6 ‘compelling reason’ to support such treatment.” *Blessing*, 2021 WL 6064006, at \*12. In applying  
 7 the “compelling reasons” standard, the Ninth Circuit has found appropriate the sealing of  
 8 documents where court records could be used “as sources of business information that might  
 9 harm a litigant’s competitive standing.” *See Ctr. for Auto Safety*, 809 F.3d at 1097. “Confidential  
 10 business information in the form of ‘license agreements, financial terms, details of confidential  
 11 licensing negotiations, and business strategies’ satisfies the ‘compelling reasons’ standard.”  
 12 *Hetland v. LendingTree, LLC*, No. 19-CV-02288-JSC, 2021 WL 2313386, at \*1 (N.D. Cal. May  
 13 3, 2021) (quoting *Exeltis USA Inc. v. First Databank, Inc.*, Case No. 17-cv-04810-HSG, 2020  
 14 WL 2838812, at \*1 (N.D. Cal. June 1, 2020)).

### 15 **III. THE COURT SHOULD SEAL SONOS’S CONFIDENTIAL MATERIAL**

16 The portions of Exhibit 5 to the Kolker Declaration identified with blue highlighting  
 17 contain references to Sonos’s confidential business information and trade secrets, including  
 18 source code. This source code is confidential information that Sonos does not share publicly,  
 19 which reveals technical details of the operation of Sonos’s technology. Thus, public disclosure of  
 20 such information may lead to competitive harm as Sonos’s competitors could use these details to  
 21 gain a competitive advantage in the marketplace with respect to their competing products. A less  
 22 restrictive alternative than sealing the portions of Exhibit 5 to the Kolker Declaration would not  
 23 be sufficient because the information sought to be sealed is Sonos’s confidential business  
 24 information and trade secrets and is integral to Sonos’s legal arguments. *See Declaration of*  
 25 *Clement Roberts in Support of Administrative Motion filed concurrently herewith*, ¶ 4.

### 26 **IV. CONCLUSION**

27 In compliance with Civil Local Rule 79-5(d) and (e), an unredacted version of the above-  
 28 listed document accompanies this Administrative Motion and the redacted version was filed

1 publicly. A proposed order is being filed concurrently herewith. For the foregoing reasons,  
2 Sonos respectfully requests that the Court grant Sonos's Administrative Motion.

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4 Dated: May 1, 2023

ORRICK HERRINGTON & SUTCLIFFE LLP  
*and*  
LEE SULLIVAN SHEA & SMITH LLP

6  
7 By: /s/ Clement S. Roberts

Clement S. Roberts

8 *Attorneys for Sonos, Inc.*  
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